



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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JAMES E. SPEED
Executive Director

April 11, 2003

Dear Interested Party :

Enclosed are the Agenda, Issue Paper, and Revenue Estimate for the April 23, 2003, Business Taxes Committee meeting. This meeting will address proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*.

Action 1 on the Agenda consists of items on which we believe industry and staff are in full agreement.

If you wish to have any consent items (Action 1) discussed fully at the Committee meeting, you must contact a Board Member prior to April 18, 2003, to request removal of the item from the Consent Agenda. In addition, please notify Ms. Charlotte Paliani, Program Planning Manager, after you contact a Board Member's Office. Ms. Paliani may be reached at (916) 324-1825.

If you are interested in other topics to be considered by the Business Taxes Committee, you may refer to the "Board Meetings and Committee Information" page on the Board's Internet web site (<http://www.boe.ca.gov/meetings/meetings.htm#two>) for copies of Committee discussion or issue papers, minutes, a procedures manual and calendars arranged according to subject matter and by month.

Thank you for your input on these issues and I look forward to seeing you at the Business Taxes Committee meeting at **9:30 a.m.** on **April 23, 2003**, in Room 121 at the address shown above.

Sincerely,

Ramon J. Hirsig
Deputy Director
Sales and Use Tax Department

RJH: ph

Enclosures

cc: (all with enclosures)

Honorable Carole Migden, Chairwoman
Honorable Claude Parrish, Vice Chairman
Honorable Bill Leonard, Member, Second District (MIC 78)
Honorable John Chiang, Member, Fourth District
Honorable Steve Westly, State Controller
Ms. Rita Perry, Board Member's Office, First District (MIC 71)
Mr. Neil Shah, Board Member's Office, Third District
Mr. Romeo Vinzon, Board Member's Office, Third District
Mr. Matthew Zylowski, Board Member's Office, Third District
Ms. Margaret Pennington, Board Member's Office, Second District (MIC 78)
Mr. Lee Williams, Board Member's Office, Second District (via e-mail)
Mr. John Thiella, Board Member's Office, Fourth District (MIC 72)
Mr. Steven Kamp, Board Member's Office, Fourth District (MIC 72)
Ms. Marcy Jo Mandel, State Controller's Office
Mr. James E. Speed (MIC 73)
Mr. Timothy Boyer (MIC 83)
Ms. Janice Thurston (MIC 82)
Mr. Warren Astleford (MIC 82)
Mr. John Abbott (MIC 82)
Ms. Jean Ogrod (via e-mail)
Mr. Jeff Vest (via e-mail)
Mr. David Levine (MIC 85)
Mr. Steve Ryan (via e-mail)
Mr. Rey Obligacion (via e-mail)
Ms. Jennifer Willis (MIC 70)
Mr. Dan Tokutomi (via e-mail)
Mr. Dave Hayes (MIC 67)
Ms. Charlotte Paliani (MIC 92)
Mr. Joseph Young (via e-mail)
Mr. Jerry Cornelius (via e-mail)
Mr. Jeffrey L. McGuire (via e-mail)
Mr. Vic Anderson (MIC 40 and via e-mail)
Mr. Larry Bergkamp (via e-mail)
Mr. Geoffrey E. Lyle (MIC 50)
Ms. Oveta Riffle (MIC 37)
Ms. Laureen Simpson (MIC 50)
Mr. Peter Horton (MIC 50)
Ms. Cecilia Watkins (MIC 50)

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
Use in Interstate or Out-of-State Commerce

Action 1 — Consent Items Agenda, pages 2-7	Adopt proposed Regulation 1620.1 as agreed upon by staff and interested parties to implement and clarify Revenue Taxation and Code sections 6388 and 6388.5.
Action 2 – Authorization to Publish	Recommend publication proposed Regulation 1620.1 as adopted in the above action(s). Operative Date: None Implementation: 30 days following OAL approval

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
Use in Interstate or Out-of-State Commerce

Action Item	Staff and Industry's Proposed Regulatory Language
Action 1 — Consent Items	<p><u>(a) DEFINITIONS</u></p> <p><u>(1) PERMANENT TRAILER IDENTIFICATION (PTI) PROGRAM.</u> A registration program for commercial trailers as defined in Vehicle Code section 5014.1 administered by the Department of Motor Vehicles (DMV). Assessments made pursuant to the PTI program constitute a flat fee and are not based on the weight of a commercial trailer subject to the PTI program. In lieu of annual registration, DMV assesses a service fee every five (5) years.</p> <p><u>(2) PURCHASER'S AGENT.</u> For purposes of this regulation, a purchaser's agent means a person authorized by the purchaser of a trailer to act on the purchaser's behalf in providing an exemption certificate from the sales or use tax to the seller of the trailer. To establish that a particular person is acting as the purchaser's agent, the purchaser must: 1) clearly disclose in writing to the seller the purchaser's intent to use an agent in the transaction, including the name of the purchaser's agent, and 2) obtain and retain, prior to the use of the agent, written evidence of the agent status with the purchaser. An agent may include a registration service company engaged by either the purchaser or dealer who sells trailers. A dealer, manufacturer or remanufacturer may not act as the purchaser's agent with respect to a trailer that it sells or delivers to a purchaser.</p> <p><u>(3) REMANUFACTURER AND REMANUFACTURED VEHICLES.</u> A remanufacturer of vehicles or trailers means a person who is licensed by the DMV pursuant to Vehicle Code section 507.8. A remanufactured vehicle means a vehicle constructed by a remanufacturer and meeting the criteria of Vehicle Code section 507.5. A vehicle purchased from an out-of-state company will qualify as a remanufactured vehicle if the out-of-state company is licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets the criteria established by that state for a remanufactured vehicle. The sale of a used vehicle or trailer alone does not qualify as a sale of a remanufactured vehicle unless the vehicle or trailer otherwise qualifies as a remanufactured vehicle or trailer pursuant to applicable state laws.</p> <p><u>(4) SINGLE STATE REGISTRATION SYSTEM (SSRS).</u> A federally regulated program under which states monitor a motor carrier's compliance with federal registration and insurance requirements. Motor carriers generally must register with the state in which they have their principal place of business. In California, the program is administered by the DMV and covers only motor carriers of property. Compliance with the SSRS program requires eligible motor carriers to register annually with the DMV, report the number of vehicles operating in other states participating in the SSRS program, and to pay the requisite fees. "Vehicles" for purposes of SSRS registration means only self-propelled units and not trailers. SSRS filings do not identify individual vehicles.</p> <p><u>(5) TRAILER.</u> For purposes of this regulation, a trailer means a new or remanufactured trailer or semi-trailer with an unladen weight of 6,000 pounds or more. Any vehicle not designed for carrying persons or property on its own structure, such as an auxiliary dolly, does not qualify as a trailer for purposes of this regulation. Qualified trailers may be manufactured or remanufactured either inside or outside this state.</p> <p><u>(6) UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) NUMBER.</u> A number issued by the Federal Motor Carrier Safety Administration (FMCSA) to any motor carrier located in the United States that is engaged in the transportation of property in interstate or foreign commerce. A USDOT number is assigned</p>

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
Use in Interstate or Out-of-State Commerce

Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>to a motor carrier and not to the motor carrier's individual vehicles.</u></p> <p><u>(7) UNITED STATES - FEDERAL MARITIME COMMISSION (FMC) NUMBER. A number issued by the Federal Maritime Commission to entities operating as common carriers in U.S. foreign commerce. An FMC number is assigned to an ocean carrier and to the ocean carrier's individual trailers.</u></p> <p><u>(8) VEHICLE. For purposes of this regulation, the term vehicle means a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more; or a new or remanufactured trailer coach, or auxiliary dolly, manufactured or remanufactured in this state and purchased from an out-of-state dealer for delivery in this state.</u></p> <p><u>(b) APPLICATION OF TAX</u></p> <p><u>(1) IN GENERAL. Tax applies to the sale or storage, use, or other consumption of vehicles and trailers in this state except as provided in subdivisions (b)(2) and (b)(3).</u></p> <p><u>(2) EXEMPT SALES OF VEHICLES FOR USE IN OUT-OF-STATE OR FOREIGN COMMERCE.</u></p> <p><u>(A) Notwithstanding subdivision (b)(1), tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the vehicle manufacturer or remanufacturer to a purchaser who is not a resident of California for use exclusively in out-of-state or foreign commerce where the purchaser:</u></p> <ol style="list-style-type: none"> <u>1. Purchases the vehicle from a dealer located outside this state,</u> <u>2. Removes the vehicle from this state within 30 days from and after the date of delivery,</u> <u>3. Provides a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:</u> <ol style="list-style-type: none"> <u>a. The name and location of the out-of-state dealer from whom the vehicle was purchased,</u> <u>b. The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser and the date of delivery</u> <u>c. That the purchaser is not a resident of California,</u> <u>d. That the vehicle was purchased for use exclusively outside California,</u> <u>e. That the vehicle was removed from this state within 30 days of the delivery date, and</u> <u>f. The date of removal.</u> <u>4. Provides evidence of out-of-state vehicle registration (state of registration, license plate number and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.</u> <p><u>(B) Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this</u></p>

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
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Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>state.</u></p> <p><u>(C) An affidavit for the providing of the information set forth in subdivision (b)(2)(A) is set forth in the Appendix to this regulation.</u></p> <p><u>(3) EXEMPT SALES OF TRAILERS FOR USE IN INTERSTATE, OUT-OF-STATE OR FOREIGN COMMERCE.</u></p> <p><u>(A) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), tax does not apply to the sale or storage, use, or other consumption of a trailer delivered in this state by the manufacturer, remanufacturer or dealer to a purchaser for use exclusively in interstate, out-of-state, or foreign commerce where all the following criteria are met:</u></p> <p><u>1. The trailer is manufactured or remanufactured outside California and is removed from this state within 30 days from and after the date of delivery; or the trailer is manufactured or remanufactured within California and is removed from the state within 75 days from and after the date of delivery.</u></p> <p><u>2. If the trailer is registered outside the state, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number; or, if the trailer is registered in-state under the PTI program, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. A purchaser or purchaser's agent may not use an FMC number if the purchaser has a current USDOT number. Evidence of registration outside California must be submitted to the dealer, manufacturer, or remanufacturer no later than 60 days after the timely providing of an affidavit described in subdivision (b)(3)(A)3. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.</u></p> <p><u>3. The purchaser or purchaser's agent provides a valid affidavit to the manufacturer, remanufacturer, or dealer, that is accepted by such person in good faith, stating:</u></p> <p><u>a. The name and location of the dealer from whom the trailer was purchased.</u></p> <p><u>b. The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser and the date of delivery.</u></p> <p><u>c. That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both.</u></p> <p><u>d. That the vehicle was removed from the state within the appropriate time periods provided for subdivision (b)(3)(A)(1), and</u></p> <p><u>e. The date of removal.</u></p> <p><u>(B) An affidavit for the providing of the information set forth in subdivision (b)(3) to the deliverer is set forth in the Appendix to this regulation.</u></p>

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
Use in Interstate or Out-of-State Commerce

Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>(c) AFFIDAVIT. An affidavit is valid where a purchaser or, in the case of a claimed section 6388.5 exemption, a purchaser or purchaser's agent provides all information required by subdivisions (b)(2) or (b)(3), signs and dates the affidavit, and provides it to the manufacturer or remanufacturer that delivered the vehicle to the purchaser or to the manufacturer, remanufacturer, or dealer that delivered the trailer to the purchaser within 30 days after the vehicle or trailer is removed from the state.</u></p> <p><u>For transactions that include the purchase of more than one vehicle or trailer, the purchaser need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a VIN or serial number. The purchaser must, however, report the date each vehicle or trailer was delivered and the date each was removed from the state and provide current out-of-state license and registration or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required by subdivisions (b)(2) and (b)(3).</u></p> <p><u>For purposes of this regulation it is presumed that the person who delivers a vehicle or trailer to the purchaser accepted the affidavit in good faith in the absence of evidence to the contrary.</u></p> <p><u>(d) LESSORS. The sale of a vehicle or trailer to a lessor qualifies for the exemptions from sales and use tax provided by Revenue and Taxation Code sections 6388 and 6388.5 provided the sale and subsequent use of the vehicle or trailer as leased tangible personal property meets the appropriate criteria detailed in subdivisions (b)(2) and (b)(3). In addition to the information required in these subdivisions, a lessor must provide the name and address of the lessee on the affidavit and, when applicable, documentation showing that the vehicle or trailer was registered outside the state on behalf of the lessor or lessee. If a leased trailer is registered under the PTI program, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing.</u></p> <p><u>(e) DOCUMENTATION TO BE MAINTAINED BY PURCHASERS. Purchasers of vehicles shall maintain internal records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388 exemption was taken out of California within the time mandated by statute and was used exclusively outside the state. Purchasers of trailers shall maintain internal records documenting that a trailer qualifying for the Revenue and Taxation Code section 6388.5 exemption was taken out of California within the time mandated by statute and was used exclusively in out-of-state, foreign or interstate commerce. A purchaser must provide the supporting documentation to the Board upon request.</u></p>

AGENDA —April 23, 2003 Business Taxes Committee Meeting
Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for
Use in Interstate or Out-of-State Commerce

AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION
FROM CALIFORNIA SALES AND USE TAX

Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide exemptions from the taxes imposed on the sale, storage, use, or other consumption of certain new and remanufactured vehicles and trailers. The RTC section 6388 exemption applies to the sale or use of certain new or remanufactured vehicles. The RTC section 6388.5 exemption applies to the sale or use of certain new or remanufactured trailers. Additional information about these exemptions and additional requirements to meet these exemptions is available on the back of this form and in Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-Of-State Commerce*.

CHECK AND/OR FILLIN ALL APPROPRIATE BOXES AND BLANKS BELOW

I have purchased a vehicle or trailer the sale and use of which is exempt from California sales and use tax per section ☐ 6388 ☐ 6388.5.

Vehicle or Trailer Information:

The vehicle is a ☐ truck, ☐ truck tractor, ☐ trailer, ☐ semitrailer, ☐ trailer coach, or ☐ auxiliary dolly, described as:

MAKE & MODEL	VIN/SERIAL NO.	YEAR	PURCHASE PRICE	UNLADEN WEIGHT
MANUFACTURER/REMANUFACTURER		PLACE OF MANUFACTURE/REMANUFACTURE		DATE OF DELIVERY

The vehicle or trailer was moved outside California within ☐ 30 ☐ 75 days of delivery (check one). Date moved: _____

Seller and Deliverer of Vehicle or Trailer:

I hereby certify that the vehicle or trailer described above was purchased from _____
(name of dealer or mfr./remfr.)

located at _____, and was delivered by _____
(dealer or mfr./remfr.'s address – street, city, state, zip code)

_____, located at _____
(name of California dealer or mfr./remfr.) (California dealer or mfr./remfr.'s address – street, city, state, zip code)

Leasing and Registration Information:

The vehicle or trailer described above ☐ is ☐ is not being leased. If being leased, name and address of lessee: _____

Vehicle or trailer is licensed or registered in _____

(state where registered) (If a trailer is registered in California, provide owner's or lessee's USDOT number or FMC number)

Purchaser Information:

The purchaser is a ☐ corporation ☐ limited liability company ☐ partnership ☐ sole proprietor, which ☐ is ☐ is not a resident of California. The vehicle was purchased for use outside California (section 6388) or the trailer was purchased for use exclusively outside California or exclusively in interstate and foreign commerce, or both (section 6388.5). **If the trailer or vehicle is registered outside California, a copy of the purchaser's or lessor's out-of-state registration, or license and registration, will be provided within 60 days from the date of this affidavit. If the trailer is registered in California under the PTI program, a copy of the purchaser's or lessee's USDOT number, FMC number, or current SSRS filing is attached.**

I understand that if I do not meet the requisite exemption provisions detailed on the back of this form, I am required by the California Sales and Use Tax Law to report and pay tax, and interest and penalties (if appropriate), directly to the California State Board of Equalization, the tax to be measured by the purchase price of the above listed vehicle or trailer even though I have furnished an affidavit of exemption to the manufacturer, remanufacturer, or dealer.

PURCHASER'S NAME

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT	TITLE	
PRINT NAME OF SIGNATOR	PHONE NUMBER	DATE
	()	

For exemption requirements and instructions on completing this affidavit, please see back of form.

AGENDA —April 23, 2003 Business Taxes Committee Meeting

Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce

AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION FROM CALIFORNIA SALES AND USE TAX

SECTION 6388 - NEW OR REMANUFACTURED VEHICLES PURCHASED FROM OUT-OF-STATE DEALER

Applies to the sale, storage, use, or other consumption of a new or remanufactured truck, truck tractor, trailer, or semitrailer, with an unladen weight of 6,000 pounds or more, or a trailer coach or auxiliary dolly, purchased from a dealer located **outside** California for use **outside** California, and delivered in California by the manufacturer or remanufacturer to a purchaser who is not a resident of California. The purchaser must

1. Remove the vehicle from this state within 30 days from and after the date of delivery.
2. Provide a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:
 - The name and location of the out-of-state dealer from whom the vehicle was purchased
 - The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser
 - That the purchaser is not a resident of California
 - That the vehicle was purchased for use exclusively outside California
 - That the vehicle was removed from this state within 30 days of the delivery date, and
 - The date of removal
3. Provide evidence of out-of-state vehicle registration (state of registration, license plate number, and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

SECTION 6388.5 - NEW OR REMANUFACTURED TRAILERS PURCHASED FOR OUT-OF-STATE OR INTERSTATE COMMERCE USE

Applies to the sale, storage, use, or other consumption of a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more purchased from a California or non-California dealer that was manufactured or remanufactured either within or without this state for use **exclusively outside** California or **exclusively in interstate or foreign commerce**, or both; **and** delivered by the manufacturer, remanufacturer, or dealer, to the purchaser in California. The purchaser or purchaser's agent must:

1. Remove the trailer from this state within 30 days from and after the date of delivery, if the trailer is manufactured or remanufactured outside California; or remove the trailer from the state within 75 days from and after the date of delivery, if the trailer is manufactured or remanufactured within California.
2. If the trailer is registered outside the state, provide the delivering manufacturer, remanufacturer or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no later than 60 days after the timely providing of an affidavit.
3. If the trailer is registered in-state under the PTI program, provide the delivering manufacturer, remanufacturer or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. The purchaser or purchaser's agent may not use the FMC number if the purchaser has a current USDOT number. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.
4. Provide an affidavit to the manufacturer, remanufacturer or dealer, that is accepted by such person in good faith, stating:
 - The name and location of the dealer from whom the trailer was purchased
 - The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser
 - That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both
 - That the vehicle was removed from the state within the appropriate time periods, and
 - The date of removal

INSTRUCTIONS –

This affidavit must be provided to the entity delivering the vehicle or trailer no later than **30 days** from the date the vehicle or trailer is taken outside California.

Fill in all sections and check all appropriate boxes. If the vehicle or trailer was sold and delivered by the same entity, write "Same" in sections for deliverer.

If a trailer is registered in California under the Permanent Trailer Identification Program (PTI), proof of a United States Department of Transportation (USDOT) number, Federal Maritime Commission (FMC) number, or current Single State Registration System (SSRS) filing must be attached to the affidavit.

If a vehicle or trailer is registered outside California, proof of out-of-state registration that includes the vehicle or trailer VIN or serial number must be furnished to the deliverer of the vehicle or trailer no later than 60 days after the purchaser provides the affidavit to the deliverer.

For transactions that include the purchase of more than one vehicle or trailer, you need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. You must, however, report the date each vehicle or trailer was removed from the state and provide copies of current out-of-state license and registration documents or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required.

Persons who purchase a vehicle or trailer for the purpose of leasing it, qualify for the exemption if the lessee meets the respective exemption criteria summarized above. A lessor must provide the name and address of the lessee. On leases of trailers that qualify for PTI registration, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing. For all other leases, the lessor must provide proof of out-of-state registration.

If you have questions about these exemptions or completion of the affidavit, please call (800) 400-7115.

Issue Paper Number **03 - 003**



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services and
Administrative Efficiency
Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Other

**New or Remanufactured Vehicles and Trailers Purchased
for Use In Interstate or Foreign Commerce
(Regulation 1620.1, Sales of Certain Vehicles and Trailers
for Use in Interstate or Out-of-State Commerce)**

I. Issue

Should proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, be adopted to implement and clarify Revenue and Taxation Code sections 6388 and 6388.5?

II. Staff Recommendation

Staff recommends adoption of the proposed regulation, which:

- Provides definitions of key terms;
- Addresses the application of tax to sales of certain vehicles and trailers delivered to purchasers in California;
- Provides criteria for properly completing an affidavit;
- Provides guidelines for lessors; and
- Provides record-keeping requirements for purchasers of the vehicles and trailers.

A copy of the proposed regulation is provided in Exhibit 2. See Agenda action item 1, and issue paper pages 5-7.

III. Other Alternative(s) Considered

Do not adopt proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*. See issue paper pages 7-8.

Issue Paper Number: **03 - 003**

IV. Background

Under the Sales and Use Tax Law, a transfer of tangible personal property in California for consideration is subject to tax unless there is a statutory exemption. Although tax applies to the sale and first use of tangible personal property in California, Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide specific sales and use tax exemptions on the sale, or storage, use or other consumption of certain vehicles and trailers delivered inside this state.

Section 6388 exempts the sale or storage, use, or other consumption of a new or remanufactured truck, truck tractor, semitrailer, or trailer; or new or remanufactured trailer coach or auxiliary dolly, when:

- The truck or trailer has an unladen weight of 6,000 pounds or more (there is no weight limit for the trailer coach or auxiliary dolly),
- The vehicle is purchased by a non-resident buyer from an out-of-state dealer for use outside the state,
- The manufacturer or remanufacturer delivers the vehicle to the buyer in-state, and
- The buyer removes the vehicle from the state within 30 days from the delivery date.

Similarly, section 6388.5 exempts the sale or storage, use, or other consumption of certain new or remanufactured trailers when purchased for use out-of-state, or in interstate or foreign commerce. The sale of a trailer inside this state which was manufactured or remanufactured outside the state is exempt if the trailer:

- Has an unladen weight of 6,000 pounds or more,
- Is delivered in-state to the buyer by the manufacturer, remanufacturer or dealer, and
- Is removed from the state by the buyer for use exclusively outside the state or exclusively in interstate or foreign commerce within 30 days from the delivery date.

When a trailer is manufactured or remanufactured inside the state, the sale or storage, use, or other consumption of the trailer is exempt if the trailer meets the first two conditions and the buyer removes the trailer from the state for use in out-of-state, interstate or foreign commerce within 75 days from the delivery date.

To obtain the exemptions, the purchaser must provide certain information to the manufacturer, remanufacturer or dealer making the delivery. For the section 6388 exemption, this includes:

- Written evidence of an out-of-state registration for the vehicle, and
- An affidavit attesting that 1) the purchaser is not a resident of California, 2) the vehicle was purchased from a specified out-of-state dealer for use outside California, and 3) the vehicle was removed from California within 30 days of delivery to the buyer.

The information to support the exemption allowed by section 6388.5 is similar to that required by section 6388. That is, the purchaser must provide an affidavit to the delivering manufacturer, remanufacturer or dealer attesting that the trailer was purchased for use outside the state and was removed within the time limits established by law. The purchaser must also provide written registration information. However, there are differences resulting from the amendments to RTC section 6388.5

Issue Paper Number: **03 - 003**

enacted by Assembly Bill (AB) 1472 (Stats. 2001, Ch. 826). These amendments provide that either the purchaser or the purchaser's agent may provide written documentation to the delivering entity. In addition, AB 1472 allows an alternative to written evidence of out-of-state registration. Purchasers of trailers subject to the permanent trailer identification (PTI) program administered by the California Department of Motor Vehicles (DMV) may provide evidence of the buyer's or lessee's United States Department of Transportation (USDOT) number or Single State Registration System (SSRS) filing. (Descriptions of the PTI, USDOT, and SSRS programs are provided in the following section on motor carrier regulation.)

The affidavit for the section 6388.5 exemption is similar to that used for section 6388. The buyer or buyer's agent must attest that the vehicle was:

- Purchased from a dealer at a specified location for use exclusively outside the state or exclusively in interstate or foreign commerce, or both, and
- Removed from the state within the appropriate period of either 30 or 75 days.

The affidavits for both exemptions must be submitted on Form BOE-837, Affidavit for Section 6388 or 6388.5 Exemption from the California Sales and Use Tax, which provides a claimant with the appropriate declarations required for the exemptions. A revision of the current Form BOE-837 is provided in the Appendix of proposed Regulation 1620.1.

To date, compliance with RTC sections 6388 and 6388.5 has been handled administratively. That is, the Board ensures compliance by requiring purchasers of qualified vehicles and trailers to file Form BOE-837 with the businesses that deliver the vehicles or trailers, along with written documentation. While this system worked well, amendments to RTC section 6388.5 enacted by AB 1472 added terminology and provisions to the statute that require definition and clarification. In addition, staff was of the opinion that guidelines should be provided concerning the time periods within which purchasers needed to furnish the affidavit and required written documentation.

Motor Carrier Regulation

As noted in the previous section, AB 1472 incorporates into RTC section 6388.5 references to USDOT number, SSRS filing and PTI program. These references, all elements in the regulation of the interstate motor carrier industry, are briefly discussed in the following paragraphs.

The legal authority to regulate interstate trucking is given to the Federal Department of Transportation (Transportation) and sub-agencies within Transportation. One sub-agency, the Federal Motor Carrier Safety Administration (FMCSA), has the responsibility of registering interstate motor carriers of property and, on registration, issuing them a USDOT number. Under federal law, it is illegal for interstate motor carriers, whether carrying property or passengers, to engage in interstate operations unless they are registered with Transportation. Once registered, interstate motor carriers must display their USDOT number on their vehicles in a prescribed manner. It should be noted that the USDOT number is issued to the motor carrier and not to an individual vehicle. Consequently, the same USDOT number will appear on all vehicles operated by that carrier.

In addition to the programs administered by Transportation, certain regulatory programs are delegated to the states by federal law. The SSRS program is one such program. Authorized by Title 49, United States Code (USC) section 14503, the SSRS program requires the states to monitor a motor carrier's compliance with federal registration and insurance requirements. Under the program, a motor carrier must provide its administering state with:

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- Evidence of federal registration (the USDOT number),
- Proof of required insurance or self-insurance,
- The name of a local agent for service of process, and
- A list of the states in which the motor carrier operates and the approximate number of power units (truck or truck-tractor units) that it will operate in those states.

Based on the list of states reported by the motor carrier, the administering state calculates the fees due. The motor carrier pays the fees to the administering state in accordance with the fee schedule and the administering state distributes the appropriate amount of fees to the states on the list.

In California, a motor carrier fulfills its SSRS filing requirement with annual filings of Forms RS-1 and RS-2 with DMV. In turn, DMV provides the carriers with a receipt that must be placed in each power unit, that is, truck or truck-tractor. As with the USDOT number, Forms RS-1 and RS-2 are filed on behalf of a motor carrier and do not provide information about individual vehicles.

The PTI program is not directly mandated by a federal statute, but was adopted in response to a rule change by a multi-jurisdictional program in which California participates: the International Registration Plan (IRP). The IRP, a program affiliated with the American Association of Motor Vehicle Administrators, facilitates commercial vehicle registration and operation among the 48 contiguous states and several Canadian provinces by providing a uniform system for collecting and allocating commercial vehicle operating fees. It allows a motor carrier operating in several states to pay all fees annually to the licensing authority in its home state. The home state authority then distributes the appropriate amount of the fees to the states in which the carrier operates.

California has been a member of the IRP since 1985, but, until recently, administered its trailer registration program on an exception basis. That is, California's registration program for commercial trailers was different than the other member states. Consequently, these states were required to keep separate records for trailers registered in California. In 1999, the IRP rescinded all exceptions. As a result, California was required to conform its trailer registration program to the programs administered by other member states. Senate Bill (SB) 2084 (Ch. 861, Stats. 2000) achieved this conformity through the enactment of the Commercial Vehicle Registration Act (CVRA), created the PTI program through the adoption of Vehicle Code (VC) section 5014.1. Under PTI, trailers are permanently registered in California and the registration is renewed every five years. Rather than having fees tied to vehicle weight as under the prior registration system, PTI fees are a fixed amount for all trailers.

DMV and the motor vehicle departments of other states also register power units with IRP approved programs. Under these programs, power units intended for use in interstate or foreign commerce, such as trucks and truck-tractors, are registered individually using the vehicle identification number (VIN), year, model, make, and owner information. Owners must also provide information as to the states in which the vehicle is to be operated and the approximate miles of use in those states. Using this information, DMV and other states provide each registered vehicle with an IRP "cab card" that identifies the vehicle and provides a listing of the states in which the vehicle may operate. Fees for all states in which the vehicle is to be operated are paid to the registering state. The registering state then distributes the fees to the appropriate states. Operators of the vehicle are required to pay additional fees when using the vehicle in states not listed on the cab card.

It should be noted that compliance with motor carrier regulation includes more programs, registrations, and reports than are summarized above. Because of the resulting complexity, motor carriers frequently contract with registration service companies or rely on the truck or trailer dealers to file the needed

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documents. These entities are the “agents” referred to in the AB 1472 amendments to RTC section 6388.5.

A table of acronyms and other information concerning the regulation of commercial trucking is attached as Exhibit 3.

Staff is proposing to clarify and implement the RTC section 6388 and 6388.5 exemptions through adoption of new Regulation 1620.1. Interested parties meetings were held on January 2 and February 13, 2003. Suggestions provided at these meetings were incorporated into the proposed regulation.

Staff subsequently received comments from the following industry groups: Pacific Merchant Shipping Association (PMSA) and the California Trucking Association (CTA). Both interested parties had the same concern. The proposed regulation submitted for review at the interested parties meetings specifies two types of documentation that a buyer must submit to support a section 6388.5 exemption for a trailer registered under the PTI program: a USDOT number or SSRS filing. However, ocean common carriers (OCC) purchasing or leasing trailers registered under the PTI program may be unable to provide this documentation. Although certain OCCs qualify as interstate motor carriers and register with the FMCSA, OCCs are actually regulated by the Federal Maritime Commission (FMC). Consequently, an OCC generally will not have an USDOT number nor are they required to make an SSRS filing. Rather, they are assigned a registration number by the FMC.

The interested parties’ concern is summarized in the following comments from PMSA:

The proposed regulation fails to provide a mechanism for ocean common carriers, who are purchasers or lessees of trailing equipment (namely, chassis) registered under the PTI program, to provide evidence that they are engaged in foreign commerce. It is proposed that ocean common carriers provide this evidence in the form of the carrier’s Federal Maritime Commission (FMC) number. This number is assigned by the FMC to entities operating as common carriers in the U.S. foreign trade.

Both interested parties submitted the same proposed language to effect this change. Staff incorporated the language suggested by interested parties into the proposed regulation. Staff and interested parties also agreed that an FMC number could be used only by a purchaser who did not have an USDOT number.

Interested parties also suggested a purchaser be allowed to submit documentation confirming that the purchaser had an assigned USDOT number or FMC number. This documentation would be offered in lieu of the original assignment letter from a federal agency. Staff agreed that this suggestion was reasonable and incorporated appropriate language into the proposed regulation.

The Business Taxes Committee will discuss the proposed regulation at its meeting on April 23, 2003.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends the adoption of proposed Regulation 1620.1. The proposed regulation clarifies and implements RTC sections 6388 and 6388.5. It is also consistent with RTC section 6388.3, which requires the Board to “prepare and distribute a standard form or forms for the purchaser affidavit required by Section 6388 and 6388.5.” The proposed regulation has the following provisions:

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- Subdivision 1620.1(a) defines key terms used in the statutes, including “trailer,” “vehicle,” “remanufactured vehicle,” and “purchaser’s agent,” permanent trailer identification program (PTI), single state registration system (SSRS), Federal Maritime Commission (FMC) number and United States Department of Transportation (USDOT) number.
- Subdivision 1620.1(b) addresses the application of tax. Subdivision (b)(1) states the general application of tax. Subdivisions (b)(2) and (b)(3) detail the criteria that would qualify a purchaser for an exemption on the sale or use of a vehicle or trailer delivered in California. In addition to reiterating the criteria provided for in RTC sections 6388 and 6388.5, these subdivisions establish 60 days as the time period within which a purchaser must furnish documentation of out-of-state registration to the deliverer of a vehicle or trailer.
- Subdivision 1620.1(c) provides the criteria for a proper affidavit. It provides that a purchaser must provide an affidavit to a purchaser within 30 days after removing a vehicle or trailer from the state. It allows a purchaser of multiple vehicles or trailers the option of filing one affidavit and appending a list of the purchased vehicles or trailers. The subdivision also defines “good faith” for purposes of accepting an affidavit.
- Subdivision 1620.1(d) has guidelines for lessors who claim the exemptions.
- Subdivision 1620.1(e) requires purchasers that claim the 6388 or 6388.5 exemption to maintain records supporting their claim. These records must be provided to the Board upon request.

It should be noted that subdivision 1620.1(e) is primarily motivated by the inadequacy of the documentation required by RTC section 6388.5. As noted on page 3, purchasers of PTI-registered trailers may be allowed the exemption when they furnish an affidavit to the deliverer along with documentation of an USDOT or FMC number, or a copy of an SSRS filing. However, these documents demonstrate only that the purchaser is engaged in interstate commerce. They do not document that the purchaser is using a specific trailer in interstate, out-of-state or foreign commerce as required by the statute, or that the trailer was removed from the state within the time limits required by statute. Since a timely filed affidavit with proper documentation accepted in good faith shifts the liability for tax from the deliverer of the trailer to the purchaser, it is imperative that purchasers document their eligibility for the exemption and provide this information to the Board on request.

In addition to the provisions above, the proposed regulation includes, as an Appendix, a copy of the affidavit, Form B0E-837. Staff proposes a number of revisions to the format of and information requested by the current affidavit. The proposed changes to formatting expand the form to two pages. Page 1 includes the information that must be furnished and the attestation of the information’s accuracy. Page 2 details the qualifying criteria for the RTC section 6388 and 6388.5 exemptions and provides instructions for completing the affidavit. The proposed additional information requested on the affidavit includes:

- The name and location of the dealer from whom the vehicle or trailer was purchased.
- The name and address of the vehicle or trailer’s lessee, if applicable.
- The date the trailer was moved out of California.

B. Pros of the Staff Recommendation

- Clarifies the criteria that must be met for claiming RTC section 6388 and 6388.5 exemptions.

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- Provides a more comprehensive affidavit form.

C. Cons of the Staff Recommendation

Requires adoption of a new regulation.

D. Statutory or Regulatory Change

No statutory change is required. However, staff's recommendation does require the adoption of a new regulation.

E. Administrative Impact

Staff will be required to notify taxpayers of the amendments to the regulation through an article in the Tax Information Bulletin (TIB) and distribute the adopted regulation.

F. Fiscal Impact

1. Cost Impact

There will be no additional costs. Staff will notify taxpayers of the new regulation through a Tax Information Bulletin (TIB) article. The workload associated with the publication and distribution of the TIB is considered routine and any corresponding cost would be within the Board's existing budget.

2. Revenue Impact

None. The proposed regulation clarifies existing statute and policy. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact

Will enhance taxpayer/customer understanding of the exemptions provided by RTC sections 6388 and 6388.5.

H. Critical Time Frames

The proposed regulation represents an interpretation of existing statutes and, therefore, has no operative date. Implementation will take place 30 days following approval of the regulation by the State Office of Administrative Law.

VI. Alternative 1

A. Description of the Alternative

Do not adopt proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*.

B. Pros of the Alternative

No regulatory action needed.

C. Cons of the Alternative

Does not clarify provisions of RTC sections 6388 and 6388.5.

D. Statutory or Regulatory Change

None.

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E. Administrative Impact

None.

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact

Taxpayers/customers will not receive clarification regarding the applicability of and required documentation for the exemptions provided by RTC sections 6388 and 6388.5.

H. Critical Time Frames

None.

Prepared by: Program Planning Division, Sales and Use Tax Department

Current as of: April 2, 2003

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REVENUE ESTIMATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION



BOARD OF EQUALIZATION
REVENUE ESTIMATE

**New or Remanufactured Vehicles and Trailers Purchased for Use In
Interstate or Foreign Commerce (Regulation 1620.1, Sales of Certain Vehicles
and Trailers for Use in Interstate or Out-of-State Commerce) IPN 03-003**

Recommendation and Alternatives

Staff recommends adoption of the proposed regulation, which:

- Provides definitions of key terms;
- Addresses the application of tax to sales of certain vehicles and trailers delivered to purchasers in California;
- Provides criteria for properly completing an affidavit;
- Provides guidelines for lessors; and
- Provides record-keeping requirements for purchasers of the vehicles and trailers.

Alternative 1

Do not adopt proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*.

Background, Methodology, and Assumptions

Staff Recommendation:

There is nothing in the proposed new Regulation 1620.1 that would impact revenues, since it merely implements and clarifies existing statutes and policies.

Alternative 1:

Alternative 1 has no revenue effect.

Revenue Summary

The staff recommendation has no revenue effect.

The alternative proposal has no revenue effect.

Preparation

Bill Benson, Jr., Research and Statistics Section prepared this revenue estimate. Mr. Dave Hayes, Manager, Research and Statistics Section and Ms. Charlotte Paliani, Program Planning Manager, Sales and Use Tax Department reviewed this revenue estimate. For additional information, please contact Mr. Benson at (916) 445-0840.

Current as of March 20, 2003

Proposed Regulation 1620.1. SALES OF CERTAIN VEHICLES AND TRAILERS FOR USE IN INTERSTATE OR OUT-OF-STATE COMMERCE

Reference: Sections 6388, 6388.3, 6388.5, and 6421, Revenue and Taxation Code.

(a) DEFINITIONS

(1) PERMANENT TRAILER IDENTIFICATION (PTI) PROGRAM. A registration program for commercial trailers as defined in Vehicle Code section 5014.1 administered by the Department of Motor Vehicles (DMV). Assessments made pursuant to the PTI program constitute a flat fee and are not based on the weight of a commercial trailer subject to the PTI program. In lieu of annual registration, DMV assesses a service fee every five (5) years.

(2) PURCHASER'S AGENT. For purposes of this regulation, a purchaser's agent means a person authorized by the purchaser of a trailer to act on the purchaser's behalf in providing an exemption certificate from the sales or use tax to the seller of the trailer. To establish that a particular person is acting as the purchaser's agent, the purchaser must: 1) clearly disclose in writing to the seller the purchaser's intent to use an agent in the transaction, including the name of the purchaser's agent, and 2) obtain and retain, prior to the use of the agent, written evidence of the agent's status with the purchaser. An agent may include a registration service company engaged by either the purchaser or dealer who sells trailers. A dealer, manufacturer or remanufacturer may not act as the purchaser's agent with respect to a trailer that it sells or delivers to a purchaser.

(3) REMANUFACTURER AND REMANUFACTURED VEHICLES. A remanufacturer of vehicles or trailers means a person who is licensed by the DMV pursuant to Vehicle Code section 507.8. A remanufactured vehicle means a vehicle constructed by a remanufacturer and meeting the criteria of Vehicle Code section 507.5. A vehicle purchased from an out-of-state company will qualify as a remanufactured vehicle if the out-of-state company is licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets the criteria established by that state for a remanufactured vehicle. The sale of a used vehicle or trailer alone does not qualify as a sale of a remanufactured vehicle unless the vehicle or trailer otherwise qualifies as a remanufactured vehicle or trailer pursuant to applicable state laws.

(4) SINGLE STATE REGISTRATION SYSTEM (SSRS). A federally regulated program under which states monitor a motor carrier's compliance with federal registration and insurance requirements. Motor carriers generally must register with the state in which they have their principal place of business. In California, the program is administered by the DMV and covers only motor carriers of property. Compliance with the SSRS program requires eligible motor carriers to register annually with the DMV, report the number of vehicles operating in other states participating in the SSRS program, and to pay the requisite fees. "Vehicles" for purposes of SSRS registration means only self-propelled units and not trailers. SSRS filings do not identify individual vehicles.

(5) TRAILER. For purposes of this regulation, trailer means a new or remanufactured trailer or semi-trailer with an unladen weight of 6,000 pounds or more. Any vehicle not designed for carrying persons or property on its own structure, such as an auxiliary dolly, does not qualify as a trailer for purposes of this regulation. Qualified trailers may be manufactured or remanufactured either inside or outside this state.

(6) UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) NUMBER. A number issued by the Federal Motor Carrier Safety Administration (FMCSA) to any motor carrier located in the United States that is engaged in the transportation of property in interstate or foreign commerce. A USDOT number is assigned to a motor carrier and not to the motor carrier's individual vehicles.

(7) UNITED STATES - FEDERAL MARITIME COMMISSION (FMC) NUMBER. A number issued by the Federal Maritime Commission to entities operating as common carriers in U.S. foreign commerce. An FMC number is assigned to an ocean carrier and to the ocean carrier's individual trailers.

(8) VEHICLE. For purposes of this regulation, the term vehicle means a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more; or a new or remanufactured trailer coach, or auxiliary dolly, manufactured or remanufactured in this state and purchased from an out-of-state dealer for delivery in this state.

(b) APPLICATION OF TAX

(1) IN GENERAL. Tax applies to the sale or storage, use, or other consumption of vehicles and trailers in this state except as provided in subdivisions (b)(2) and (b)(3).

(2) EXEMPT SALES OF VEHICLES FOR USE IN OUT-OF-STATE OR FOREIGN COMMERCE.

(A) Notwithstanding subdivision (b)(1), tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the vehicle manufacturer or remanufacturer to a purchaser who is not a resident of California for use exclusively in out-of-state or foreign commerce where the purchaser:

1. Purchases the vehicle from a dealer located outside this state.
2. Removes the vehicle from this state within 30 days from and after the date of delivery.
3. Provides a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:
 - a. The name and location of the out-of-state dealer from whom the vehicle was purchased.
 - b. The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser and the date of delivery
 - c. That the purchaser is not a resident of California.
 - d. That the vehicle was purchased for use exclusively outside California.
 - e. That the vehicle was removed from this state within 30 days of the delivery date, and
 - f. The date of removal.
4. Provides evidence of out-of-state vehicle registration (state of registration, license plate number and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

(B) Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

(C) An affidavit for the providing of the information set forth in subdivision (b)(2)(A) is set forth in the Appendix to this regulation.

(3) EXEMPT SALES OF TRAILERS FOR USE IN INTERSTATE, OUT-OF-STATE OR FOREIGN COMMERCE.

(A) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), tax does not apply to the sale or storage, use, or other consumption of a trailer delivered in this state by the manufacturer, remanufacturer or dealer to a purchaser for use exclusively in interstate, out-of-state, or foreign commerce where all the following criteria are met:

1. The trailer is manufactured or remanufactured outside California and is removed from this state within 30 days from and after the date of delivery; or the trailer is manufactured or remanufactured within California and is removed from the state within 75 days from and after the date of delivery.
2. If the trailer is registered outside the state, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number; or, if the trailer is registered in-state under the PTI program, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. A purchaser or purchaser's agent may not use an FMC number if the purchaser has a current USDOT number. Evidence of registration outside California must be submitted to the dealer, manufacturer, or remanufacturer no later than 60 days after the timely providing of an affidavit described in subdivision (b)(3)(A)3. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.
3. The purchaser or purchaser's agent provides a valid affidavit to the manufacturer, remanufacturer, or dealer, that is accepted by such person in good faith, stating:
 - a. The name and location of the dealer from whom the trailer was purchased.
 - b. The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser and the date of delivery.
 - c. That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both.
 - d. That the vehicle was removed from the state within the appropriate time periods provided for in subdivision (b)(3)(A)(1), and

e. The date of removal.

(B) An affidavit for the providing of the information set forth in subdivision (b)(3) to the deliverer is set forth in the Appendix to this regulation.

(c) AFFIDAVIT. An affidavit is valid where a purchaser or, in the case of a claimed section 6388.5 exemption, a purchaser or purchaser's agent, provides all information required by subdivisions (b)(2) or (b)(3), signs and dates the affidavit, and provides it to the manufacturer or remanufacturer that delivered the vehicle to the purchaser or to the manufacturer, remanufacturer, or dealer that delivered the trailer to the purchaser within 30 days after the vehicle or trailer is removed from the state.

For transactions that include the purchase of more than one vehicle or trailer, the purchaser need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a VIN or serial number. The purchaser must, however, report the date each vehicle or trailer was delivered and the date each was removed from the state and provide current out-of-state license and registration or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required by subdivisions (b)(2) and (b)(3).

For purposes of this regulation it is presumed that the person who delivers a vehicle or trailer to the purchaser accepted the affidavit in good faith in the absence of evidence to the contrary.

(d) LESSORS. The sale of a vehicle or trailer to a lessor qualifies for the exemptions from sales and use tax provided by Revenue and Taxation Code sections 6388 and 6388.5 provided the sale and subsequent use of the vehicle or trailer as leased tangible personal property meets the appropriate criteria detailed in subdivisions (b)(2) and (b)(3). In addition to the information required in these subdivisions, a lessor must provide the name and address of the lessee on the affidavit and, when applicable, documentation showing that the vehicle or trailer was registered outside the state on behalf of the lessor or lessee. If a leased trailer is registered under the PTI program, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing.

(e) DOCUMENTATION TO BE MAINTAINED BY PURCHASERS. Purchasers of vehicles shall maintain internal records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388 exemption was taken out of California within the time mandated by statute and was used exclusively outside the state. Purchasers of trailers shall maintain internal records documenting that a trailer qualifying for the Revenue and Taxation Code section 6388.5 exemption was taken out of California within the time mandated by statute and was used exclusively in out-of-state, foreign or interstate commerce. A purchaser must provide the supporting documentation to the Board upon request.

**AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION
FROM CALIFORNIA SALES AND USE TAX**

Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide exemptions from the taxes imposed on the sale, storage, use, or other consumption of certain new and remanufactured vehicles and trailers. The RTC section 6388 exemption applies to the sale or use of certain new or remanufactured vehicles. The RTC section 6388.5 exemption applies to the sale or use of certain new or remanufactured trailers. Additional information about these exemptions and additional requirements to meet these exemptions is available on the back of this form and in Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-Of-State Commerce*.

CHECK AND/OR FILL IN ALL APPROPRIATE BOXES AND BLANKS BELOW

I have purchased a vehicle or trailer the sale and use of which is exempt from California sales and use tax per section ☐ 6388 ☐ 6388.5.

Vehicle or Trailer Information:

The vehicle is a ☐ truck, ☐ truck tractor, ☐ trailer, ☐ semitrailer, ☐ trailer coach, or ☐ auxiliary dolly, described as:

MAKE & MODEL	VIN/SERIAL NO.	YEAR	PURCHASE PRICE	UNLADEN WEIGHT
MANUFACTURER/REMANUFACTURER	PLACE OF MANUFACTURE/REMANUFACTURE		DATE OF DELIVERY	

The vehicle or trailer was moved outside California within ☐ 30 ☐ 75 days of delivery (check one). Date moved: _____

Seller and Deliverer of Vehicle or Trailer:

I hereby certify that the vehicle or trailer described above was purchased from

(name of dealer or mfr./remfr.)

located at

(dealer or mfr./remfr.'s address – street, city, state, zip code)

, and was delivered by

, located at

(name of California dealer or mfr./remfr.)

(California dealer or mfr./remfr.'s address – street, city, state, zip code)

Leasing and Registration Information:

The vehicle or trailer described above ☐ is ☐ is not being leased. If being leased, name and address of lessee:

Vehicle or trailer is licensed or registered in

(state where registered)

(If a trailer is registered in California, provide owner's or lessee's USDOT number or FMC number)

Purchaser Information:

The purchaser is a ☐ corporation ☐ limited liability company ☐ partnership ☐ sole proprietor, which ☐ is ☐ is not a resident of California. The vehicle was purchased for use outside California (section 6388) or the trailer was purchased for use exclusively outside California or exclusively in interstate and foreign commerce, or both (section 6388.5). **If the trailer or vehicle is registered outside California, a copy of the purchaser's or lessor's out-of-state registration, or license and registration, will be provided within 60 days from the date of this affidavit. If the trailer is registered in California under the PTI program, a copy of the purchaser's or lessee's USDOT number, FMC number, or current SSRS filing is attached.**

I understand that if I do not meet the requisite exemption provisions detailed on the back of this form, I am required by the California Sales and Use Tax Law to report and pay tax, and interest and penalties (if appropriate), directly to the California State Board of Equalization, the tax to be measured by the purchase price of the above listed vehicle or trailer even though I have furnished an affidavit of exemption to the manufacturer, remanufacturer, or dealer.

PURCHASER'S NAME

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT

TITLE


PRINT NAME OF SIGNATOR

PHONE NUMBER

DATE

()

For exemption requirements and instructions on completing this affidavit, please see back of form.

**AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION
FROM CALIFORNIA SALES AND USE TAX**

SECTION 6388 - NEW OR REMANUFACTURED VEHICLES PURCHASED FROM OUT-OF-STATE DEALER

Applies to the sale, storage, use, or other consumption of a new or remanufactured truck, truck tractor, trailer, or semitrailer, with an unladen weight of 6,000 pounds or more, or a trailer coach or auxiliary dolly, purchased from a dealer located **outside** California for use **outside** California, and delivered in California by the manufacturer or remanufacturer to a purchaser who is not a resident of California. The purchaser must

1. Remove the vehicle from this state within 30 days from and after the date of delivery.
2. Provide a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:
 - The name and location of the out-of-state dealer from whom the vehicle was purchased
 - The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser, and the date of delivery
 - That the purchaser is not a resident of California
 - That the vehicle was purchased for use exclusively outside California
 - That the vehicle was removed from this state within 30 days of the delivery date, and
 - The date of removal
3. Provide evidence of out-of-state vehicle registration (state of registration, license plate number, and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

**SECTION 6388.5 - NEW OR REMANUFACTURED TRAILERS PURCHASED FOR OUT-OF-STATE OR INTERSTATE
COMMERCE USE**

Applies to the sale, storage, use, or other consumption of a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more purchased from a California or non-California dealer that was manufactured or remanufactured either within or without this state for use exclusively outside California or exclusively in interstate or foreign commerce, or both; **and** delivered by the manufacturer, remanufacturer, or dealer, to the purchaser in California. The purchaser or purchaser's agent must:

1. Remove the trailer from this state within 30 days from and after the date of delivery, if the trailer is manufactured or remanufactured outside California; or remove the trailer from the state within 75 days from and after the date of delivery, if the trailer is manufactured or remanufactured within California.
2. If the trailer is registered outside the state, provide the delivering manufacturer, remanufacturer or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no later than 60 days after the timely providing of an affidavit.
3. If the trailer is registered in-state under the PTI program, provide the delivering manufacturer, remanufacturer or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. The purchaser or purchaser's agent may not use the FMC number if the purchaser has a current USDOT number. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.
4. Provide an affidavit to the manufacturer, remanufacturer or dealer, that is accepted by such person in good faith, stating:
 - The name and location of the dealer from whom the trailer was purchased
 - The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser
 - That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both
 - That the vehicle was removed from the state within the appropriate time periods, and
 - The date of removal

INSTRUCTIONS –

This affidavit must be provided to the entity delivering the vehicle or trailer no later than **30 days** from the date the vehicle or trailer is taken outside California.

Fill in all sections and check all appropriate boxes. If the vehicle or trailer was sold and delivered by the same entity, write "Same" in sections for deliverer.

If a trailer is registered in California under the Permanent Trailer Identification Program (PTI), proof of a United States Department of Transportation (USDOT) number, Federal Maritime Commission (FMC) number, or current Single State Registration System (SSRS) filing must be attached to the affidavit.

If a vehicle or trailer is registered outside California, proof of out-of-state registration that includes the vehicle or trailer VIN or serial number must be furnished to the deliverer of the vehicle or trailer no later than 60 days after the purchaser provides the affidavit to the deliverer.

For transactions that include the purchase of more than one vehicle or trailer, you need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. You must, however, report the date each vehicle or trailer was removed from the state and provide copies of current out-of-state license and registration documents or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required.

Persons, who purchase a vehicle or trailer for the purpose of leasing it, qualify for the exemption if the lessee meets the respective exemption criteria summarized above. A lessor must provide the name and address of the lessee. On leases of trailers that qualify for PTI registration, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing. For all other leases, the lessor must provide proof of out-of-state registration.

If you have questions about these exemptions or completion of the affidavit, please call (800) 400-7115.

Table of Acronyms Used in the Regulation of Commercial Trucking

Acronym – Title	Meaning/Purpose	Documents Produced
CVRA – Commercial Vehicle Registration Act	The provisions of the CVRA are in Senate Bill 2084, Chapt. 861, Stats. 2000. The CVRA enacted the IPT program and made a number of other changes to vehicle registration requirements.	N/A
FMC – Federal Maritime Commission	The Federal Maritime Commission regulates and licenses businesses engaged in ocean shipping.	<ul style="list-style-type: none"> • FMC license number
FMCSA – Federal Motor Carrier Safety Administration	Starting January 1, 2000, the federal agency responsible for licensing and establishing insurance levels for for-hire motor carriers engaged in interstate or foreign commerce. FMCSA issues the USDOT number.	<ul style="list-style-type: none"> • USDOT number registration record.
IFTA – International Fuel Tax Agreement	An agreement among states in the United States and Canadian provinces simplifying fuel use tax reporting by motor carriers engaged in interstate and foreign commerce.	<ul style="list-style-type: none"> • IFTA License • Quarterly fuel use reports
IRP – International Registration Plan	A program to facilitate commercial vehicle registration among the 48 contiguous states and certain Canadian provinces for power units operating in interstate or foreign commerce. It provides a uniform system of collecting and allocating commercial vehicle operating fees. IRP allows a carrier operating in several states to pay all fees and licensing in its home state. The state then allocates fees to the states in which the vehicle is operated. In California, the IRP is administered by the Department of Motor Vehicles (DMV), Industry Operations	<ul style="list-style-type: none"> • Registration record for each power unit registered. • An IRP cab card, which is carried in the registered vehicle. The cab card is used to validate registration in the state in which the vehicle is operating.

Acronym – Title	Meaning/Purpose	Documents Produced
	Division.	
MCP – Motor Carrier Permit	A permit issued by DMV to motor carriers who are engaged only in California intrastate commerce. A carrier wanting to engage in interstate or foreign commerce must apply to the FMCSA for a USDOT number.	<ul style="list-style-type: none">• Motor carrier permit.
PTI – Permanent Trailer Identification Program	A trailer registration program administered by DMV. Most trailers registered in California are subject to PTI. Registration fees are fixed rather than based on trailer weight. The registration is renewed every five years. Trailers may be used intrastate or interstate.	<ul style="list-style-type: none">• Registration record for each trailer registered in the PTI program.
SSRS – Single State Registration System	A federally mandated program administered by the states, which is used to monitor interstate motor carriers of property. Companies are required to file once a year with DMV and provide proof of federal registration for interstate trucking (the USDOT number) and proof of insurance. Fees are based on the number of vehicles being operated in participating states. Filers do not provide specific vehicle information, for example, VIN or registration numbers.	<ul style="list-style-type: none">• DMV Forms RS-1 and RS-2.• Truck registration receipt.
USDOT Number – United States Department of Transportation Number	The number issued by the FMCSA authorizing a motor carrier to engage in interstate transportation of goods. A carrier without a USDOT may not legally transport goods in interstate or foreign commerce.	<ul style="list-style-type: none">• USDOT certificate.